

SEP 28 2010

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

MICHAEL W. MILLER,

Petitioner,

v.

GENE JOHNSON, DIRECTOR,

Respondent.

)  
Case No. 7:06CV00611  
)  
)  
ORDER  
)  
By: Hon. Glen E. Conrad  
) Chief United States District Judge  
)

In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

as follows:

1. Petitioner's motions (DE 41) are **DENIED** to the extent that they seek relief from any judgment, pursuant to Fed. R. Civ. P. 60(b);
2. The three motions, jointly, are hereby **CONSTRUED** as petitions for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254; and
3. The clerk is **DIRECTED** to docket the three motions, jointly, as a new petition for a writ of habeas corpus, pursuant to § 2254. By separate order in that new action, the court will dismiss the petition as successive, pursuant to 28 U.S.C. § 2244(b).

The clerk shall send a copy of this order and the accompanying memorandum opinion to the petitioner.

ENTER: This 21<sup>st</sup> day of September, 2010.

*Glen Conrad*  
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Chief United States District Judge